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Attorneys for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

PAULINE M. VELEZ,

Plaintiff,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Defendant.

) CASE NO. 20-CV-5170 KAW
)

) **DECLARATION OF VALERIE E. SMITH IN**
) **SUPPORT OF DEFENDANT'S MOTION FOR**
) **SUMMARY JUDGMENT**
)

1 I, **Valerie E. Smith**, an attorney duly admitted to practice in the States of New York and California
2 and in the United States District Court for the Northern District of California, declares, pursuant to 28
3 U.S.C. §1746, under penalty of perjury, that the following is true and correct:

4 I am an Assistant United States Attorney in the United States Attorney's Office for the Northern
5 District of California, and attorney for the Defendant. As such, I am familiar with the facts and
6 circumstances stated below. I submit this declaration in support of Defendant's Motion for Summary
7 Judgment pursuant to Federal Rule of Civil Procedure 56.

8 1. Annexed as Exhibit "A" is a true and accurate copy of the deposition of Timothy Graham
9 taken on May 3, 2021.

10 2. Annexed as Exhibit "B" is a true and accurate copy of the affidavit of Timothy Graham
11 dated, May 1, 2019. This affidavit was was provided in relation to Plaintiff's EEOC Complaint No. 200P-
12 0612-2018106247. True and accurate copies of the sworn follow-up emails exchanged on May 10, 2019,
13 and May 14, 2019, between Timothy Graham and EEO Investigator Kurt Barthal are included with the
14 affidavit for a complete record. The affidavit of Timothy Graham is annexed to the deposition of Timothy
15 Graham taken on May 1, 2019, as Exhibit 7.

16 3. Annexed as Exhibit "C" is a true and accurate copy of the deposition of David Stockwell
17 taken on May 4, 2021.

18 4. Annexed as Exhibit "D" is a true and accurate copy of the deposition of Plaintiff, Pauline
19 Velez taken on April 29, 2021.

20 5. Annexed as Exhibit "E" is a true and accurate copy of the curriculum vitae ("CV") of
21 Plaintiff, Pauline Velez. Plaintiff's CV is annexed, as Exhibit 1, to her deposition taken on April 29, 2021.

22 6. Annexed as Exhibit "F" is a true and accurate copy of the Notification of Personnel Action,
23 Form SF-50 dated, October 28, 2018. This form indicates that Plaintiff received a work performance
24 increase in pay as of October 28, 2018.

25 7. Annexed as Exhibit "G" is a true and accurate copy of the deposition of Crystal Keeler
26 taken on August 13, 2021.

1 8. Annexed as Exhibit “H” is a true and accurate copy of Pay Table 4 for the Department of
2 Veterans Affairs. Pay Table 4 demonstrates the two tiers of payment for physicians who have a clinical
3 specialty of vascular surgery.

4 9. Annexed as Exhibit “I” is a true and accurate copy of the Change in Assignment
5 Memorandum dated, August 20, 2018, issued by Timothy Graham. This memorandum is annexed to the
6 deposition of Pauline Velez taken on April 29, 2021, as Exhibit 2 and to the deposition of Timothy Graham
7 taken on May 3, 2021, as Exhibit 1.

8 10. Annexed as Exhibit “J” is a true and accurate copy of the deposition of Dr. William Cahill,
9 MD taken on May 10, 2021.

10 11. Annexed as Exhibit “K” is a true and accurate copy of Dr. William Cahill’s sworn
11 statement of provided to EEO investigator Kurt Barthel on May 17, 2019.

12 12. Annexed as Exhibit “L” is a true and accurate copy of Timothy Graham’s September 27,
13 2018, response to Plaintiff’s informal grievance following the August 20, 2018, Change in Assignment
14 Memorandum. This document is annexed to the deposition of Pauline Velez taken on April 29, 2021, as
15 Exhibit 5 and annexed to the deposition of Timothy Graham taken on May 3, 2021, as Exhibit 4.

16 13. Annexed as Exhibit “M” is a true and accurate copy of Dr. Ronald Chung’s sworn
17 statement provided to EEO Investigator Kurt Barthel on May 20, 2019.

18 14. Annexed as Exhibit “N” is a true and accurate copy of the deposition of Dr. Scott Hundahl,
19 MD taken on November 1, 2021.

20 15. Annexed as Exhibit “O” is a true and accurate copy of David Stockwell’s Decision of
21 Plaintiff’s Formal Grievance dated, February 1, 2019. This document is annexed to the deposition of David
22 Stockwell taken on May 4, 2021, as Exhibit 4.

23 16. Annexed as Exhibit “P” is a true and accurate copy of the Plaintiff’s informal grievance
24 submitted to Timothy Graham on August 27, 2018. This document is annexed to the deposition of Timothy
25 Graham taken on May 3, 2021, as Exhibit 3.

26 17. Annexed as Exhibit “Q” is a true and accurate copy of the December 12, 2018,
27 Memorandum from Lorrie Strohecker to David Stockwell regarding the Grievance Examiners Report
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1 related to Plaintiff's formal grievance. This document is annexed to the deposition of David Stockwell
2 taken on May 4, 2021, as Exhibit 3.

3 18. Annexed as Exhibit "R" is a true and accurate copy of the Notice of Accepted EEOC Claim
4 dated, March 8, 2019, for EEO Complaint No. 200P-0612-2018106247. This document is annexed to the
5 deposition of Pauline Velez dated April 29, 2021, as Exhibit 4.

6 19. Annexed as Exhibit "S" is a true and accurate copy of the Final Agency Decision dated,
7 August 30, 2019, related to EEO Complaint No. 200P-0612-2018106247. This document is annexed to
8 the deposition of Pauline Velez dated April 29, 2021, as Exhibit 8.

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10 DATED: San Francisco, California
March 17, 2022

11 Respectfully Submitted,

12 STEPHANIE M. HINDS
United States Attorney

13 /s/ Valerie E. Smith
14 VALERIE E. SMITH
Assistant United States Attorney
15 Attorney for Defendant
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